THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.30439 of 1997

Dated 20-11-2007

Between:

Gold Granites

…Petitioner

And

The Government of Andhra Pradesh
Rep. by its Secretary, and others

…Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.30439 of 1997

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ORDER:

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The petitioner and the 5th respondent applied for grant of quarry lease to extract coloured granite over the land in Sy.No.27 of Meelasathivada Village of Tekkali Mandal, Srikakulam District, in the year 1995. A joint inspection was conducted by the 4th respondent, the Assistant Director of Mines and Geology, Srikakulam. By taking the view that the representatives of the 5th respondent did not produce their authorization, or power of attorney, the

4th respondent treated the petitioner as the only applicant, and recommended the case of the petitioner to the Deputy Director of Mines and Geology, the 3rd respondent, for grant of lease. Accordingly, the 3rd respondent granted quarry lease in favour of the petitioner, vide proceedings dated 20-04-1995, for a period of 15 years, over an extent of 3 Hectares.

Feeling aggrieved by the grant of lease in favour of the

petitioner, the 5th respondent approached the Director of Mines and Geology, Hyderabad, the 2nd respondent herein.

An order of stay was passed on 11-07-1995. The petitioner filed a revision before the 1st respondent on 18-07-1995. On their part, the 5th respondent has also filed a revision before the 1st respondent, assailing the grant of lease in favour of the petitioner. Through common order dated 29-02-1996, the 1st respondent directed the 2nd

respondent to verify the record, particularly whether the representatives of the 5th respondent have attended the inspection, undertaken by the 4th respondent.

The 2nd respondent had taken necessary steps in pursuance of the directions issued by the 1st respondent. He reported that though the representatives of the 5th respondent failed to produce the authorization, at the time of inspection, the matter needs to be examined, in detail, at the level of the 3rd respondent. On receiving this report, the 1st respondent issued a show cause notice to the petitioner, directing it to state, as to why the lease granted in its favour shall not be cancelled. The petitioner submitted its explanation, on 13-06-1997. On a consideration of the same, the

1st respondent issued memo dated 06-08-1997, setting aside the quarry lease, granted to the petitioner on 15-04-1995. The same is challenged in this writ petition.

Sri Balaji, learned counsel for the petitioner submits that, even according to the various orders passed by respondents 1 and 2, it is evident that the representatives of the 5th respondent did not produce the valid authorization, or general power of attorney,

at the time of inspection, and in that view of the matter, there was no alternative for the 4th respondent, except to treat the petitioner as the only applicant. He contends that the cancellation of the lease, granted in favour of the petitioner, is untenable, either on facts or in law.

Learned Government Pleader for Mines and Geology and learned counsel for the 5th respondent, on the other hand, submit that the application of the 5th respondent was earlier in point of time, and there ought to have been clear and valid reasons for rejecting its application. They contend that if the 4th respondent entertained any

doubt, as to the authenticity of the representatives of the 5th respondent, he ought to have given an opportunity to them, to produce the letters of authorization, and unilateral decision taken in this regard, cannot be sustained in law.

They submit that the petitioner cannot be said to have suffered any detriment, since the matter is remitted to the 3rd respondent, for fresh consideration and disposal.

As observed earlier, there were two applications for grant of lease over the same piece of land. Naturally, the point of time, at which the applications are presented; becomes relevant.

The application of the 5th respondent is said to be earlier in point of time. The 4th respondent had undertaken inspection of the land. At that time, the representatives of the petitioner, as well as the 5th respondent were present. The 4th respondent doubted the authenticity of the representatives of the 5th respondent. He straightaway ignored them, without giving opportunity to produce the GPA, or authorization, as the case may be.

This resulted in omission of the application of the 5th respondent from consideration, and consequential grant of lease in favour of the petitioner.

The grant of lease in favour of the petitioner gave rise to the filing of an appeal, by the 5th respondent, before the 2nd respondent. The stay granted by the 2nd respondent led to the filing of revision, by the petitioner, before the 1st respondent.

The 5th respondent had also brought about a revision before the 1st respondent. After calling for necessary reports, and causing the inspection of the record, the 1st respondent took the view that the 5th respondent was not given adequate opportunity, at the time of inspection and consideration of the applications. The petitioner was

also given a show cause notice. When relative assessment of the merits of the application became necessary, exclusion of one of the applicants, on technical grounds, that too, without giving any opportunity; cannot be said to be a proper exercise. The lapse, that took place during the course of inspection by the

4th respondent; was corrected by the 1st respondent, through the impugned order. This Court is not inclined to interfere with the same.

The writ petition is accordingly dismissed. It is directed that the application of the petitioner, as well as the 5th respondent, shall be considered on their own merits, in accordance with law.

There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.20-11-2007.

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